

**“Oil Spill in New Orleans in July 2008 and  
Safety on the Inland River System”**

**September 16, 2008 –10:00 a.m.  
Room 2167, Rayburn House Office Building**

*Statement of Chairman Elijah E. Cummings*

Before we begin, we commend the Coast Guard for the work they are undertaking even now to aid those who have been so terribly affected by Hurricane Ike.

It is in these times of national emergency that we see the dedication that the Coast Guard brings to its work aiding those in peril – and we thank them for their heroic efforts.

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The Subcommittee convenes today to examine the circumstances surrounding the spill of nearly 300,000 gallons of number six fuel oil into the Mississippi River near New Orleans on July 23.

We will also take a broader look at the significant safety issues in the towing industry highlighted by the accident that caused the spill.

The July 23<sup>rd</sup> spill occurred when a towing vessel pushed a tank barge into the path of an on-coming tanker. The towing vessel involved in the casualty, the *Mel Oliver*, was not being operated at the time of the collision by a properly licensed master.

Instead, it was being operated by a person holding only an apprentice mate's license who was not authorized to operate a towing vessel without the presence of a licensed master in the wheel house.

DRD towing, the firm operating the *Mel Oliver*, has a history of operating vessels without properly licensed personnel. Less than two weeks before the accident involving the *Mel Oliver*, DRD was apparently illegally operating the towing vessel *Ruby E* with a person holding only the apprentice mate's license when the vessel sank.

DRD Towing has also been cited by the Coast Guard for operating towing vessels without properly licensed personnel on several previous occasions.

DRD was a member of the American Waterways Operators – the industry trade association for the tug and barge industry – at the time of the collision between the barge being pushed by the *Mel Oliver* and the tank vessel and at the time of the sinking of the *Ruby E*.

However, in May, the firm failed the safety audit that AWO requires as a condition of membership in its association. The audit is the cornerstone of the program AWO terms the "Responsible Carrier Program," which it argues is designed to ensure safety in the towing industry.

Only after the accident between the *Mel Oliver* and the tank vessel did the Coast Guard systematically check other DRD-operated towing vessels in the New Orleans area to ensure that they were operated by fully licensed personnel.

However, the fact that this firm could sink one towing vessel and then, less than two weeks later, cause a major collision with another towing vessel when neither was being operated with properly licensed personnel – and that too after having been cited on previous occasions for such violations – suggests to me that either this firm was truly negligent or that its managers felt that there was little risk of being caught while operating without properly licensed personnel.

One of the deckhands on the *Mel Oliver* tested positive for the use of illegal drugs. This is likely an incidental finding. However, to be frank, there are widespread claims among those who work in the towing industry that the operation of towing vessels without properly licensed personnel is common – and that drug use is prevalent in the industry. There are similar claims that violations of the rule that forbids licensed personnel from working more than 12 hours in a 24-hour period are also common – and simple mathematics would suggest that it would be very difficult for licensed individuals to comply with this limitation when there are only two such personnel on a towing vessel.

At the time of the accident on July 23<sup>rd</sup>, the towing vessel *Mel Oliver* was chartered by its owner, American Commercial Lines, to DRD under a bareboat charter and then hired

back by ACL under a fully found charter. This arrangement does not appear to have been designed to generate revenues for ACL.

Rather, it appears to have been designed to enable ACL to operate its vessel at the cheapest possible costs – by shifting maintenance responsibilities and, more importantly, the hiring of crew members onto DRD, a firm that was obviously ill-prepared to meet these responsibilities but with which ACL had nonetheless done business for a decade.

According to statistics provided by the Coast Guard, between 2000 and 2008, ACL, which is currently the second largest firm in the towing industry, has had eight deaths or missing persons on vessels for which it was the managing owner – more than on vessels under any other managing owner in the towing industry save for fatalities arising from a single accident involving another firm in 2001.

We have before us today a very troubling portrait of an industry that is essential to commerce in our nation. However, unlike in many instances in which problems are prevalent within a given industry, the Coast Guard appears to have all of the authority it needs to deal with many of these issues.

The Coast Guard has had the authority since 2004 to set hours-of-service limits on towing vessels but has not chosen to exercise this authority despite widespread agreement that human factors – and particularly fatigue – are among the most prevalent of all causes of casualties on towing vessels.

Similarly, Congress passed a law in 2004 finally bringing towing vessels under inspection requirements – requirements from which vessels currently in operation had been exempt for decades simply because they were powered by diesel engines rather than steam engines. As part of the inspection process, the Coast Guard will be required to set manning levels.

However, now, four years later, the Coast Guard has not even published a notice of proposed rulemaking to initiate the effort to complete the rules needed to create the inspection process. This rulemaking remains one of more than 100 pending with the service.

Today, we will examine these issues in more detail and identify the steps that need to be taken to ensure that the towing industry is as safe as it can possibly be.

We look forward to hearing from representatives of the Coast Guard and NOAA, as well as American Commercial Lines, the American Waterways Operators, the Northeast Maritime Institute, the Seafarers International Union, and the National Mariners Association.

I note that we invited DRD to attend this hearing. DRD's owner, Daniel Dantin, responded to the Subcommittee's request for him to appear through counsel, stating the following: